

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

)

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Plaintiff,

)

v.

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)

BARRY WINFIELD CONE,

)

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Defendant.

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Case No. 10-CR-0150-001-GKF

USM Number: 08351-062

OPINION AND ORDER

Before the Court is defendant's motion for designation of institution (Docket No. 23). Defendant requests that the Court issue an order or make a recommendation to the Bureau of Prisons to designate a prison facility as close to Tulsa, Oklahoma, as possible.

On December 6, 2010, defendant appeared for sentencing following his plea of guilty to false statement to a financial institution, in violation of 18 U.S.C. § 1014. Defendant was sentenced to 14 months in the custody of the Bureau of Prisons, with 10 months to run consecutively to Northern Oklahoma case 04-CR-168-001-GKF. When sentenced, the Court made no recommendation to the Bureau of Prisons as to the place of confinement.

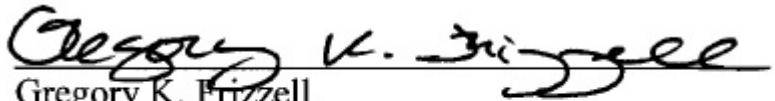
In the federal prison system, the authority to designate the place of a prisoner's incarceration rests with the Bureau of Prisons. 18 U.S.C. § 3621(b). The Bureau of Prisons retains the statutory authority and responsibility to choose the "place of imprisonment from among any available penal or correctional institution." *Goldings v. Winn*, 383 F.3d 17, 25 (1st Cir. 2004). A district court does not have authority to order the Bureau of Prisons to place a defendant in a particular penal facility. The Court may, however, make a non-binding recommendation to the Bureau of Prisons as to the

place of confinement for a defendant. *See* § 3621(b)(4).

IT IS THEREFORE ORDERED that defendant's motion for designation of institution (Docket No. 23), is denied in part and granted in part. Defendant's motion to order the Bureau of Prisons to designate a specific facility is **denied**. Defendant's request that the Court recommend to the Bureau of Prisons a place of confinement is **granted**.

IT IS THEREFORE RECOMMENDED that the Bureau of Prisons designate a facility as close to Tulsa, Oklahoma, as possible.

IT IS SO ORDERED this 13th day of December, 2010.

A handwritten signature in black ink, reading "Gregory K. Frizzell", written over a horizontal line.

Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma